



**Billing Code: 6750-01S**

**FEDERAL TRADE COMMISSION**

**16 CFR Part 803**

**Premerger Notification; Reporting and Waiting Period Requirements**

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is amending the Hart-Scott-Rodino (“HSR”) Premerger Notification Rules (the “Rules”) that require the parties to certain mergers and acquisitions to file reports with the Federal Trade Commission (“the Commission” or “FTC”) and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (“the Assistant Attorney General” or “DOJ”) (together the “Antitrust Agencies” or “Agencies”) and to wait a specified period of time before consummating such transactions. These amendments update the Rules to allow for submission of the Premerger Notification and Report Form (“Form”) and accompanying documents (together the “HSR Filing”) on digital video/versatile disc (“DVD”), and clarify the Instructions to the Form.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Robert L. Jones, Assistant Director, Premerger Notification Office, Bureau of Competition, Room 5301, Federal Trade Commission, 400 7th Street, S.W., Washington, DC 20024. Telephone: (202) 326-3100, Email: [rjones@ftc.gov](mailto:rjones@ftc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Introduction**

Section 7A of the Clayton Act (the “Act”) requires the parties to certain mergers or acquisitions to file with the Commission and DOJ to allow the Agencies to conduct their initial review of a proposed transaction’s competitive impact and requires the parties to wait a specified period of time before consummating such transactions. The reporting requirement and the waiting period that it triggers are intended to enable the Antitrust Agencies to determine whether a proposed merger or acquisition may violate the antitrust laws if consummated and, when appropriate, to seek a preliminary injunction in federal court to prevent consummation, pursuant to Section 7 of the Act.

Section 7A(d)(1) of the Act, 15 U.S.C. 18a(d)(1), directs the Commission, with the concurrence of the Assistant Attorney General, in accordance with the Administrative Procedure Act, 5 U.S.C. 553, to require that premerger notification be in such form and contain such information and documentary material as may be necessary and appropriate to determine whether the proposed transaction may, if consummated, violate the antitrust laws. Section 7A(d)(2) of the Act, 15 U.S.C. 18a(d)(2), grants the Commission, with the concurrence of the Assistant Attorney General, in accordance with 5 U.S.C. 553, the authority to define the terms used in the Act and prescribe such other rules as may be necessary and appropriate to carry out the purposes of Section 7A.

Pursuant to that authority, the Commission, with the concurrence of the Assistant Attorney General, developed the Rules, codified in 16 CFR parts 801, 802 and 803, and the Form and its associated Instructions, codified at part 803--appendix, to govern the form of premerger notifications to be provided by merging parties.

HSR Filings provide the Agencies with the information and documentary material necessary for an initial evaluation of the potential anticompetitive impact of significant mergers, acquisitions and certain similar transactions. Currently, all HSR Filings are submitted in paper. Through these amendments to the Rules, the Agencies will allow the submission of HSR Filings digitally on DVD (“DVD filings”). The acceptance of DVD filings requires certain conforming changes to the Instructions to the Form, so the Commission is also taking this opportunity to clarify the Instructions and make them easier to use.

## **Statement of Basis and Purpose for the Commission's Revision of its Premerger**

### **Notification Form, Instructions and Rules**

Since the inception of the HSR program, the HSR Form and its attachments have been submitted in paper. In 2006, an electronic filing option was introduced that would allow filers to upload HSR Filings directly to the Agencies but that option failed to gain traction due to the limitations of the underlying technology, and it was soon discontinued. While the Agencies continue to explore an electronic filing option, they have decided to accept the submission of HSR Filings digitally on DVD. Accordingly, the Commission amends part 803 to delete references to the discontinued electronic filing option and revises these sections and the Instructions to the Form found in the appendix to part 803 to allow for DVD filings. Documents submitted by the parties with the filing are typically created and stored in digital format. Allowing parties to submit these digital files on electronic media will be more efficient and cost-effective, providing benefits to filing parties as well as the Agencies:

- Currently, those submitting HSR Filings must provide five paper copies of their Form, consisting of one original and one copy to the FTC, and three copies to DOJ, as well as one set of Documentary Attachments to each Agency. DVD filing will

eliminate the expensive and time-consuming printing and duplication of documents, and allow for a more efficient filing process for filing parties.

- DVD filing will ease the physical delivery of voluminous HSR Filings to the Agencies, and facilitate the processing and review of filings within each Agency.
- DVD filing will allow for more efficient and less costly storage options for the Agencies.

To provide maximum flexibility, filing parties will still have the traditional option of submitting HSR Filings in paper. Submitting an HSR Filing partially on DVD and partially in paper will not be permitted, however. Additionally, DVD submissions must be accompanied by original hard copies of the cover letter, certification and affidavit. The individual rule amendments associated with DVD filing are described more fully below.

Additionally, this rulemaking makes minor changes to the Form Instructions, many of which are unrelated to DVD filing, to reduce the burden on filing parties by making it easier to prepare the Form and comply with the HSR Filing requirements. These changes are not substantive in nature, and involve formatting, clarification, and simplification, as well as the deletion of immaterial language, with the goal of eliminating confusion for filing parties, as noted below.

### **Section 803.1 Notification and Report Form.**

The internet portal established in 2006, [www.hsr.gov](http://www.hsr.gov), to allow the electronic filing of HSR Filings is no longer technologically viable, and references to HSR.gov are removed from all Rules in which they appear and the Instructions.

### **Section 803.2 Instructions applicable to Notification and Report Form.**

Section 803.2(e)(1) currently allows filers to forego the physical production of documents responsive to Item 4(b) by incorporating by reference documents previously filed with the Agencies in other transactions. The purpose of the rule was to avoid the costly duplication of responsive documents that were already in the possession of the Agencies. However, given § 803.2(e)(2), which allows parties to cite to an Internet address rather than provide hard copies of responsive documents, and the ease of copying documents onto a DVD without any expensive hard copy duplication, § 803.2 is being amended to delete § 803.2(e)(1). The existing, current, § 803.2(e)(2) will be renumbered to § 803.2(e), and the new § 803.2(e) has been amended for clarity.

To ensure the submission of compatible and readable electronic files, and to avoid problems and delays in processing HSR Filings, paragraph (f) of § 803.2 has been amended to require the use of specific formatting when submitting an HSR Filing on DVD, and to remove the reference to [www.hsr.gov](http://www.hsr.gov). The filing person is responsible for ensuring that the formatting requirements are observed and is subject to a notice of deficient filing if an unacceptable format is submitted. See <http://www.ftc.gov/enforcement/premerger-notification-program> for all current DVD Filing format requirements.

### **Section 803.3 Statement of reasons for noncompliance.**

Section 803.3 identifies the specific information that a filing person must provide when not responding to an Item on the Form. Paragraph (d) identifies the specifics of making a claim of privilege. Paragraph (d) is amended to require the titles and/or positions of the author of a document, the addressee, and all recipients of the document being withheld or redacted under a claim of privilege to enable the Agencies to better assess if the privilege applies.

### **Section 803.5 Affidavits required.**

Section 803.5 requires an affidavit from the filing person attesting to the good faith intention of the person filing to proceed with the transaction. The affidavit must be attached to the Form at the time of filing. Paragraphs (a)(1), (a)(3), and (b) are amended to address inclusion of the affidavit when using the DVD filing option. If only a scanned version of the signed affidavit is available at the time of filing, it must be submitted on the DVD, and the original signed hard copy should be provided to the FTC as soon as possible.

### **Section 803.10 Running of time.**

Persons required by the Act to submit HSR Filings must comply with specified statutory waiting periods before consummating the transaction. Section 803.10(c)(1)(i) is amended to define the “date of receipt and means of delivery” for purposes of determining when the waiting period begins for filings submitted on DVD. Delivery is to be effected by providing a DVD filing directly to the designated agency offices, by either hand or certified or registered mail, FedEx or UPS, during normal business hours.

References and paragraphs relating exclusively to “electronic” filing, as well as references to [www.hsr.gov](http://www.hsr.gov), have been deleted to avoid confusion, as the submission of filings electronically is not currently available.

### **Appendix to Part 803 – Notification and Report Form and Instructions**

A number of changes have been made to the Form Instructions, including changes unrelated to DVD filing, that are intended to clarify the Instructions and simplify the process of completing an HSR Form. Many of these changes involve new formatting or the substitution or deletion of a word, sentence or paragraph. The more significant changes entail the following amendments:

#### “Filing”

Accounts for the option of filing using a DVD, including specific formatting and submission requirements.

#### “Responses”

Clarifies that estimated financial information provided in the Form should include an “est.” notation. Also specifies that additional pages should be included within the Form, not with the Documentary Attachments.

#### “Amount Paid”

Eliminates the requirement for an explanatory attachment regarding valuation.

#### “Payer Identification” and “Method of Payment”

Clarifies the process and requirements for submitting HSR filing fees.

#### “Item 1(g)”

Specifies that identification of a second contact person is required.

#### “Item 2(d)”

Clarifies how to respond where a transaction involves a mixed deal including voting securities, and/or non-corporate interests, and/or assets.

#### “Item 3(a)”

Reorganized and reworded for clarity. Clarifies that the description of the transaction should include a brief and simple description of the relevant assets or business operation(s) to be acquired. Deletes requirement for identification of expected dates of major events and deletes paragraph discussing acquisitions “from a holder other than the issuer or unincorporated entity” to reduce confusion.

“Item 3(b)”

Clarifies that agreement schedules are not required unless they represent some agreement between the parties (e.g., a non-compete). Specifies that parties filing on a letter of intent may also submit a draft of the definitive agreement, if one exists.

“Item 4(b)”

Reorganized and amended to clarify the types of reports that are acceptable (e.g., unaudited reports that are relied upon by the board are permitted), and from which entities reports are required.

“Items 4(c) and 4(d)”

Clarifies that document title, date, and author information is required for both 4(c) and 4(d) documents. Additionally amended to clarify the proper labeling convention for these documents, as well as the privilege log requirements outlined in § 803.3(d).

“Item 5(a)”

Simplifies the instructions.

“Item 6(b)”

Amended to clarify that only shareholders with 5% or more, but less than 50% must be identified.

“Item 6(c)”

Clarifies the instructions.

“Item 7”

Amended to clarify that all six-digit NAICS industry code overlaps must be reported, regardless of whether there is a ten-digit NAICS overlap.

“Item 7(b)”



Amended to clarify which entities should be listed.

“Item 7(c)”

Amended to change the order and organization of the NAICS codes for clarity, and renumbered the sub-sections. Amended to clarify that geographic information should be provided by state postal code abbreviations, including identifying the number of states reported, and that a response of “national” is acceptable in certain cases in lieu of listing every state.

“Item 7(c)(iv)”

Amended to more clearly state that county and city/town information is required for the specific NAICS codes outlined in this section. Reformatted for readability.

“Item 8”

Amended to clarify that Item 8 is related to codes reported in Item 5.

### **Administrative Procedure Act**

The Commission finds good cause to adopt these changes without prior public comment. Under the Administrative Procedure Act (“APA”), notice and comment are not required “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(3)(B).

The Commission is updating the Rules, Form and Instructions to provide the option of submitting HSR Filings on DVD, and to clarify the Form Instructions. Paper copy submission will remain available. These amendments to the HSR Rules and Form fall within the category of rules covering agency procedure and practice that are exempt from the notice-and-comment requirements of the APA. See 5 U.S.C. 553(b)(A). Because the amendments are not substantive in nature, they are also not subject to the delayed effective date provisions of the APA. See 5

U.S.C. 553(d) (substantive rules may take effect no sooner than 30 days after publication).

For these reasons, the Commission finds that there is good cause for adopting this final rule as effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] without prior public comment.

### **Regulatory Flexibility Act**

The Regulatory Flexibility Act, 5 U.S.C. 601-612, requires that the agency conduct an initial and final regulatory analysis of the anticipated economic impact of the proposed amendments on small businesses, except where the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605. The Regulatory Flexibility Act requirements apply, however, only to rules or amendments that are subject to the notice-and-comment requirements of the APA. See 5 U.S.C. 603, 604. Because these amendments are exempt from those APA requirements, as noted earlier, they are also exempt from the Regulatory Flexibility Act requirements. In any event, because of the size of the transactions necessary to invoke an HSR Filing, the premerger notification rules rarely, if ever, affect small businesses. Indeed, amendments to the Act in 2001 were intended to reduce the burden of the premerger notification program by exempting all transactions valued at less than \$50 million (as adjusted annually). Further, none of the proposed rule amendments expands the coverage of the premerger notification rules in a way that would affect small business. Accordingly, to the extent, if any, that the Regulatory Flexibility Act applies, the Commission certifies that these proposed rules will not have a significant economic impact on a substantial number of small entities. This document serves as notice of this certification to the Small Business Administration.

## **Paperwork Reduction Act**

These changes do not contain any record maintenance, reporting or disclosure requirements that would constitute agency “collections of information” that would have to be submitted for clearance and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3521.

## **List of Subjects in 16 CFR Part 803**

Antitrust.

For the reasons stated in the preamble, the Federal Trade Commission amends 16 CFR part 803 as set forth below:

## **PART 803—TRANSMITTAL RULES**

1. The authority citation for part 803 continues to read as follows:

**Authority:** 15 U.S.C. 18a(d).

2. Amend § 803.1 by revising paragraph (a) to read as follows:

### **§ 803.1 Notification and Report Form.**

(a) The notification required by the act shall be the Notification and Report Form set forth in the appendix to this part, as amended from time to time. All acquiring and acquired persons required to file notification by the act and these rules shall do so by completing and filing the Notification and Report Form, in accordance with the instructions thereon and these rules. The current version of the Form can be obtained at <http://www.ftc.gov>.

\* \* \* \* \*

3. Amend § 803.2 by revising paragraphs (e) and (f) to read as follows:

**§ 803.2 Instructions applicable to Notification and Report Form.**

\* \* \*

(e) For documents required by item 4(b) of the Notification and Report Form, a person filing the notification may, instead of submitting a document, provide a cite to an operative Internet address directly linking to the document, if the linked document is complete and payment is not required to access the document. If an Internet address becomes inoperative during the waiting period, or the document is otherwise rendered inaccessible or incomplete, upon notification by the Commission or Assistant Attorney General, the parties must make the document available to the agencies by either referencing an operative Internet address where the complete document may be accessed or by providing paper copies to the agencies as provided in §803.10(c)(1) by 5 p.m. on the next regular business day. Failure to make the document available, by the Internet or by providing paper copies, by 5 p.m. on the next regular business day, will result in notice of a deficient filing pursuant to §803.10(c)(2).

(f) Filings made via DVD must comply with all format requirements set forth at the Premerger Notification Office pages at <http://www.ftc.gov>. The use of any format not specified as acceptable, or any other failure to comply with the applicable format requirements, shall render the entire filing deficient within the meaning of § 803.10(c)(2).

4. Amend § 803.3 by revising paragraph (d) to read as follows:

**§ 803.3 Statement of reasons for noncompliance.**

\* \* \*

(d) Where noncompliance is based on a claim of privilege, a statement of the claim of privilege and all facts relied on in support thereof, including the identity of each document, its author, the author's title/position, addressee, the addressee's title/position, date, subject matter, all recipients of the original and of any copies, the recipients' titles/positions, the document's present location, and who has control of it.

5. Amend § 803.5 by revising paragraphs (a)(1) introductory text, (a)(3), and (b) to read as follows:

**§ 803.5 Affidavits required.**

(a)(1) Section 801.30 acquisitions. For acquisitions to which § 801.30 applies, the notification required by the act from each acquiring person shall contain an affidavit, attached to the front of the notification, or with the DVD submission, attesting that the issuer whose voting securities are to be acquired has received notice in writing by certified or registered mail, by wire or by hand delivery, at its principal executive offices, of:

\* \* \* \* \*

(3) The affidavit required by this paragraph must have attached to it a copy of the written notice received by the acquired person pursuant to paragraph (a)(1) of this section. For DVD filings, the written notice (in a form specified in the instructions) must be included on the DVD.

(b) Non-section 801.30 acquisitions. For acquisitions to which § 801.30 does not apply, the notification required by the act shall contain an affidavit, attached to the front of the notification, or with the DVD submission, attesting that a contract, agreement in principle or

letter of intent to merge or acquire has been executed, and further attesting to the good faith intention of the person filing notification to complete the transaction.

6. Amend § 803.10 by revising paragraph (c)(1)(i), removing paragraphs (c)(1)(ii) and (iii), and redesignating paragraph (c)(1)(iv) as paragraph (c)(1)(ii) to read as follows:

**§ 803.10 Running of time.**

\* \* \* \* \*

(c)(1) \* \* \*

(i) For paper copy filings and DVD filings, the date of receipt shall be the date on which delivery is effected to the designated offices (Premerger Notification Office, Federal Trade Commission, Room 5301, 400 7th Street SW., Washington, DC 20024, and Director of Civil Enforcement, Office of Operations, Antitrust Division, Department of Justice, 950 Pennsylvania Avenue, NW., Room #3335, Washington, DC 20530) during normal business hours. Delivery should be effected directly to the designated offices, either by hand or by certified or registered mail (including FedEx and UPS). In the event one or both of the delivery sites are unavailable, the FTC and DOJ may designate alternate sites for delivery of the filing. Notification of the alternate delivery sites will normally be made through a press release and, if possible, on the <http://www.ftc.gov> website.

\* \* \* \* \*

7. Amend the appendix to part 803 by revising the Instructions to the Form to read as follows:

Appendix to Part 803—Notification and Report Form for Certain Mergers and Acquisitions

\* \* \* \* \*

# ANTITRUST IMPROVEMENTS ACT NOTIFICATION AND REPORT FORM for Certain Mergers and Acquisitions

## INSTRUCTIONS

OMB: 3084-0005

### GENERAL

The Notification and Report Form ("the Form") is required to be submitted pursuant to § 803.1(a) of the premerger notification rules, 16 CFR Parts 801-803 ("the Rules"). These instructions specify the information that must be provided in response to the items on the Form.

#### Information

The central office for information and assistance concerning the Form and the Rules is:

Premmerger Notification Office  
Federal Trade Commission, Room 5301  
400 7<sup>th</sup> Street, S.W.  
Washington, D.C. 20024  
Phone: (202) 326-3100

Copies of the Form, Instructions and Rules as well as information to assist in completing the Form are available at the [PNO website](#).

#### Definitions

The definitions used in this Form are set forth in the Rules. See [Statute, Rules and Formal Interpretations](#) for copies of the Hart-Scott-Rodino Act ("the Act"), the Rules, and the Federal Register Notices issuing the Rules and Rule amendments ("Statements of Basis and Purpose").

#### Filing

Parties should file the completed Form, together with all documentary attachments, with the Premmerger Notification Office ("PNO") of the Federal Trade Commission ("FTC") and the Premmerger Unit of the Antitrust Division of the Department of Justice ("DOJ") (together, "the Agencies"). Filers have the option of submitting a [DVD filing](#) or a [paper filing](#). Filings should be submitted to:

Premmerger Notification Office  
Federal Trade Commission, Room 5301  
400 7<sup>th</sup> Street, S.W.  
Washington, D.C. 20024

and

Office of Operations, Premmerger Unit  
Antitrust Division, Department of Justice  
950 Pennsylvania Avenue, N.W., Room #3335  
Washington, D.C. 20530

(For FEDEX airbills to the Department of Justice, do not use the 20530 zip code; use zip code 20004.)

If one or both delivery sites are unavailable, the Agencies may announce alternate sites for delivery through the media and, if possible, at the [PNO website](#).

The term "documentary attachments" refers only to materials submitted in response to Item 3(b), Item 4 and to submissions pursuant to § 803.1(b) of the Rules.

#### If submitting a DVD filing

- 1) Provide the FTC with:

**TWO** (2) DVDs, each containing the Form, affidavit, certification and all documentary attachments, along with the original hard copies of the cover letter, certification and affidavit.

- 2) Provide DOJ with:

**TWO** (2) DVDs containing the same content as above, along with **THREE** (3) hard copies of the cover letter.

The Form must be a searchable PDF document. All other files must be in searchable PDF or MS Excel spreadsheet format and saved in color, if applicable.

Label each DVD with the name of the person filing (i.e., the ultimate parent entity ("UPE"), see § 801.1(a)(3)), the name of a contact person and that person's phone number. Leave space on the DVD for the Agencies to write the assigned transaction number and date of receipt.

#### If submitting a paper filing

- 1) Provide the FTC with:

**ONE** (1) original and **ONE** (1) copy of the Form, certification page and affidavit, along with an original cover letter and **ONE** (1) set of documentary attachments.

- 2) Provide DOJ with:

**TWO** (2) copies of the Form, certification page and affidavit, along with **THREE** (3) copies of the cover letter, and **ONE** (1) set of documentary attachments.

If the DVD or files contain viruses, passwords, or are not readable, the filing will not be accepted and the waiting period will not start.

For further instructions on DVD filing and specific DVD requirements, go to [HSR Resources](#) on the [PNO website](#).

#### Affidavits

Affidavit(s) are required by § 803.5 and must attest to the good faith of the persons filing to complete the transaction. Affidavits must be notarized or use the language found in 28 U.S.C. § 1746 relating to unsworn declarations under penalty of perjury. If an entity is filing on behalf of the acquiring or acquired person, the affidavit must still attest to the good faith of the UPE.

**In non-§ 801.30 transactions**, the affidavit(s) (submitted by both persons filing) must attest that a contract, agreement in principle or letter of intent to merge or acquire has been executed, and further attest to the good faith intention of the person filing notification to complete the transaction. (See § 803.5(b)).

**In § 801.30 transactions**, the affidavit (submitted only by the acquiring person) must attest:

- 1) that the issuer whose voting securities or the unincorporated entity whose non-corporate interests are to be acquired has received notice, as described below, from the acquiring person;
- 2) in the case of a tender offer, that the intention to make

the tender offer has been publicly announced; and

- 3) the good faith intention of the person filing notification to complete the transaction.

Acquiring persons in 801.30 transactions are required to submit a copy of the notice received by the acquired person pursuant to § 803.5(a)(3) along with the filing. This notice must include:

- 1) the identity of the acquiring person and the fact that the acquiring person intends to acquire voting securities of the issuer or non-corporate interests of the unincorporated entity;
- 2) the specific notification threshold that the acquiring person intends to meet or exceed in an acquisition of voting securities;
- 3) the fact that the acquisition may be subject to the Act, and that the acquiring person will file notification under the Act;
- 4) the anticipated date of receipt of such notification by the Agencies; and
- 5) the fact that the person within which the issuer or unincorporated entity is included may be required to file notification under the Act. (See § 803.5(a)).

#### Responses

Enter the name of the person filing notification in Item 1(a) on page 1 of the Form, and enter the same name and the date on which the Form is completed at the top of each page of the Form.

If there is insufficient room on the Form for a response to a particular item, attach "additional pages" behind that item on the Form. Filers must submit a complete set of additional pages within each copy of the Form.

Each additional page should identify, at the top of the page, the name of the person filing notification, the date on which the Form is completed and the item to which it is addressed.

Voluntary submissions pursuant to § 803.1(b) should be identified as V-1, V-2, etc.

If unable to answer any item fully, provide such information as is available and a statement of reasons for non-compliance as required by § 803.3. If exact answers to any item cannot be given, enter best estimates and indicate the source or basis of such estimates. Add an endnote with the notation "est." to any item where data are estimated.

All financial information should be expressed in millions of dollars rounded to the nearest one-tenth of a million dollars.

#### Limited Response

The acquired person should limit its response:

- 1) in the case of an acquisition of assets, to the assets being acquired;
- 2) in the case of an acquisition of voting securities, to the issuer(s) whose voting securities are being acquired and all entities controlled by such acquired entities; and
- 3) in the case of an acquisition of non-corporate interests, to the unincorporated entity(s) whose non-corporate interests are being acquired and all entities controlled by such acquired entities.

Separate responses may be required where a person is both acquiring and acquired. (See § 803.2(b)).

Information need not be supplied regarding assets, voting

securities or non-corporate interests currently being acquired

when their acquisition is exempt under the Act or Rules. (See § 803.2(c)).

#### Year

All references to "year" refer to calendar year. If data are not available on a calendar year basis, supply the requested data for the fiscal year reporting period that most nearly corresponds to the calendar year specified. References to "most recent year" mean the most recent calendar or fiscal year for which the requested information is available.

#### North American Industry Classification System (NAICS) Data

The Form requests "dollar revenues" categorized by NAICS codes for non-manufactured and manufactured products with respect to operations conducted within the United States, and for products manufactured outside of the United States and sold into the United States. (See § 803.2(d)). Filing persons must submit data at the 6-digit NAICS national industry code level to reflect non-manufacturing dollar revenues. To the extent that dollar revenues are derived from manufacturing operations (NAICS Sectors 31-33), filing persons must only submit data at the 10-digit NAICS product code levels, not the 6-digit level. (See Item 5 below).

In reporting information by 6-digit NAICS industry code, refer to the most recent *North American Industry Classification System - United States* published by the Executive Office of the President, Office of Management and Budget. In reporting information by 10-digit NAICS product code, refer to the most recent *Numerical List of Manufactured and Mineral Products* published by the Bureau of the Census. Information regarding NAICS is available at [www.census.gov](http://www.census.gov). This site also provides assistance in choosing the proper code(s) for reporting in Item 5 of the Form.

#### Thresholds

Filing fee and notification thresholds are adjusted annually pursuant to 15 U.S.C. § 18A(a)(2)(A) based on the change in gross national product, in accordance with 15 U.S.C. § 19(a)(5). The current threshold values can be found at [Current Filing Thresholds](#).

## END OF GENERAL SECTION

[Online Style Sheet for the Form](#)

[Online Tips for the Form](#)



## THE FORM - ITEM BY ITEM

### Fee Information

The fee for filing the Form is based on the aggregate total value of assets, voting securities and controlling non-corporate interests to be held as a result of the acquisition:

Value of assets, voting securities and controlling non-corporate interests to be held	Fee Amount
greater than \$50 million (as adjusted) but less than \$100 million (as adjusted)	\$45,000
\$100 million (as adjusted) or greater but less than \$500 million (as adjusted)	\$125,000
\$500 million or greater (as adjusted)	\$280,000

For current thresholds and fee information, see the [PNO website](#).

### Amount Paid

Indicate the amount of the filing fee paid. This amount should be net of any banking or financial institution charges.

### Payer Identification

Provide the payer's name and 9-digit Taxpayer Identification Number (TIN). If the payer is a natural person with no TIN, provide the natural person's social security number.

### Method of Payment

Check the box indicating the method of payment. If paying by electronic wire transfer (EWT), provide the EWT confirmation number and the name of the financial institution from which the EWT is being sent. If the EWT confirmation number is not available at the time of filing, provide this information to the PNO within two business days of filing.

In order for the FTC to track payment, the payer must provide information required by the Fedwire Instructions to the financial institution initiating the EWT. A template of the Fedwire Instructions is available at the [PNO website](#) on the [Filing Fee Information](#) page.

If paying by certified check, include the check in the filing, attached to the cover letter.

### Corrective Filings

Put an X in the appropriate box to indicate whether the notification is a corrective filing (i.e., an acquisition that has already taken place without filing, in violation of the statute). See [Procedures for Submitting Post-Consummation Filings](#) for more information on how to proceed in the case of a corrective filing.

### Cash Tender Offer

Put an X in the appropriate box to indicate whether the acquisition is a cash tender offer.

### Bankruptcy

Put an X in the appropriate box to indicate whether the acquired person's filing is being made by a trustee in bankruptcy or by a debtor-in-possession for a transaction that is subject to Section 363(b) of the Bankruptcy Code (11 U.S.C. § 363).

### Early Termination

Put an X in the "yes" box to request early termination of the waiting period. Notification of each grant of early termination will be published in the Federal Register, as required by 15 U.S.C. § 18A(b)(2), and on the [PNO website](#). Note that if either party in any transaction requests early termination, it may be granted and published.

### Transactions Subject to International Antitrust Notification

If, to the knowledge or belief of the filing person at the time of filing, a non-U.S. antitrust or competition authority has been or will be notified of the proposed transaction, list the name of each such authority. Response to this item is voluntary.

#### Index of Hyperlinks in these Instructions:

[PNO website](#): <https://www.ftc.gov/enforcement/premerger-notification-program>

[Statute, Rules and Formal Interpretations](#):  
<https://www.ftc.gov/enforcement/premerger-notification-program/statute-rules-formal-interpretations>

[HSR Resources](#):  
<https://www.ftc.gov/enforcement/premerger-notification-program/hsr-resources>

[Current Filing Thresholds](#):  
<https://www.ftc.gov/enforcement/premerger-notification-program/current-thresholds>

[Online Style Sheet for the Form](#):  
<https://www.ftc.gov/enforcement/premerger-notification-program/form-instructions/style-sheet>

[Online Tips for the Form](#):  
[https://www.ftc.gov/system/files/attachments/form-instructions/hsr\\_form\\_tip\\_sheet\\_1.0.5.pdf](https://www.ftc.gov/system/files/attachments/form-instructions/hsr_form_tip_sheet_1.0.5.pdf)

[Filing Fee Information](#):  
<https://www.ftc.gov/enforcement/premerger-notification-program/filing-fee-information>

[Procedures for Submitting Post-Consummation Filings](#):  
<https://www.ftc.gov/enforcement/premerger-notification-program/post-consummation-filings-hsr-violations>

[Online Tips for Item 4\(c\)](#):  
<https://www.ftc.gov/sites/default/files/attachments/hsr-resources/4ctipsheet.pdf>

[Online Tips for Item 4\(d\)](#):  
<https://www.ftc.gov/enforcement/premerger-notification-program/hsr-resources/pno-guidance-item-4d>

[Online Tips for Item 5](#):  
<https://www.ftc.gov/enforcement/premerger-notification-program/hsr-resources/reporting-revenues-item-5>

[Online Tips for Item 6](#):  
<https://www.ftc.gov/enforcement/premerger-notification-program/hsr-resources/tips-completing-item-6-hsr-form>

[Online Tips for Item 7](#):  
<https://www.ftc.gov/enforcement/premerger-notification-program/hsr-resources/tips-completing-item-7-hsr-form>

## ITEM 1

### Item 1(a)

Provide the name, headquarters address and website (if one exists) of the person filing notification. The name of the person filing is the name of the UPE. (See § 801.1(a)(3)).

### Item 1(b)

Indicate whether the person filing notification is an acquiring person, an acquired person, or both an acquiring and acquired person. (See § 801.2).

### Item 1(c)

Put an X in the appropriate box to indicate whether the person in Item 1(a) is a corporation, unincorporated entity, natural person, or other (specify). (See § 801.1).

### Item 1(d)

Put an X in the appropriate box to indicate whether data furnished in Item 5 is by calendar year or fiscal year. If fiscal year, specify the time period.

### Item 1(e)

Put an X in the appropriate box to indicate if the Form is being filed on behalf of the UPE by another entity within the same person authorized by it to file notification on its behalf pursuant to § 803.2(a), or if the Form is being filed pursuant to § 803.4 on behalf of a foreign person. Then provide the name and mailing address of the entity filing notification on behalf of the filing person named in Item 1(a) of the Form.

### Item 1(f)

For the acquiring person, if an entity other than the UPE listed in Item 1(a) is making the acquisition, provide the name and mailing address of that entity and the percentage of its voting securities or non-corporate interests held directly or indirectly by the person named in Item 1(a) above.

For the acquired person, if the assets, voting securities or non-corporate interests of an entity other than the UPE listed in Item 1(a) are being acquired, provide the name and mailing address of that entity and the percentage of its voting securities or non-corporate interests held directly or indirectly by the person named in Item 1(a) above.

### Item 1(g)

Provide the name and title, firm name, address, telephone number, fax number and e-mail address of the primary and secondary individuals to contact regarding the Form. A second contact person is required. (See § 803.20(b)(2)(ii)).

### Item 1(h)

Foreign filing persons must provide the name, firm name, address, telephone number, fax number and e-mail address of an individual located in the United States designated for the limited purpose of receiving notice of the issuance of a request for additional information or documentary material. (See § 803.20(b)(2)(iii)).

END OF ITEM 1

## ITEM 2

### Item 2(a)

Provide the names of all UPEs of acquiring and acquired persons that are parties to the transaction, whether or not they are required to file notification. If a person is not required to file, check the non-reportable box.

### Item 2(b)

Put an X in all the boxes that apply to the transaction.

### Item 2(c)

**This item should only be completed by the acquiring person where voting securities are being acquired.** If more than voting securities are being acquired, respond to this item only regarding voting securities. Put an X in the box to indicate the highest applicable threshold for which notification is being filed: \$50 million (as adjusted), \$100 million (as adjusted), \$500 million (as adjusted), 25% (if the value of voting securities to be held is greater than \$1 billion, as adjusted), or 50%. (See § 801.1(h)).

Note that the 50% notification threshold is the highest threshold and should be used for any acquisition of 50% or more of the voting securities of an issuer, regardless of the value of the voting securities. For instance, an acquisition of 100% of the voting securities of an issuer, valued in excess of \$500 million (as adjusted) would cross the 50% notification threshold, not the \$500 million (as adjusted) threshold.

### Item 2(d)

Provide the requested information on assets, voting securities and non-corporate interests. If a combination of assets, voting securities and/or non-corporate interests is being acquired and allocation is not possible, note such information in an endnote.

For determining percentage of voting securities, evaluate total voting power per § 801.12.

For determining percentage of non-corporate interests, evaluate the economic interests per § 801.1(b)(1)(ii).

### Item 2(d)(i)

State the value of voting securities already held. (See § 801.10).

### Item 2(d)(ii)

State the percentage of voting securities already held. (See § 801.12).

### Item 2(d)(iii)

State the total value of voting securities to be held as a result of the acquisition. (See § 801.10).

### Item 2(d)(iv)

State the total percentage of voting securities to be held as a result of the acquisition. (See § 801.12).

### Item 2(d)(v)

State the value of non-corporate interests already held. (See § 801.10).

### Item 2(d)(vi)

State the percentage of non-corporate interests already held. (See § 801.1(b)(1)(ii)).

### Item 2(d)(vii)

State the total value of non-corporate interests to be held as a result of the acquisition. (See § 801.10).

## ITEM 2 cont.

### Item 2(d)(viii)

State the total percentage of non-corporate interests to be held as a result of the acquisition. (See §§ 801.10 and 801.1(b)(1)(ii)).

### Item 2(d)(ix)

State the value of assets to be held as a result of the acquisition. (See § 801.10).

### Item 2(d)(x)

State the aggregate total value of assets, voting securities and non-corporate interests of the acquired person to be held as a result of the acquisition. (See §§ 801.10, 801.12, 801.13 and 801.14).

END OF ITEM 2

## ITEM 3

### Item 3(a)

At the top of Item 3(a), list the name and mailing address of each acquiring and acquired person, and acquiring and acquired entity, whether or not required to file notification.

In the Transaction Description section, briefly describe the transaction, indicating whether assets, voting securities or non-corporate interests (or some combination) are to be acquired. Describe the business operation(s) being acquired. If assets, describe the assets and whether they comprise a business operation. Also, indicate what consideration will be received by each party and the scheduled consummation date of the transaction.

If there are additional filings, such as shareholder backside filings, associated with the transaction, identify those. Also, identify any special circumstances that apply to the filing, such as whether part of the transaction is exempt under one of the exemptions found in Part 802.

### Item 3(b)

Furnish copies of all documents that constitute the agreement(s) among the acquiring person(s) and the person(s) whose assets, voting securities or non-corporate interests are to be acquired. Also furnish agreements not to compete and other agreements between the parties. Do not submit schedules and the like unless they contain agreements not to compete, other agreements between the parties, or other important terms of the transaction. For purposes of Item 3(b), responsive documents must be submitted; identifying an internet address or providing a link is not sufficient.

Documents that constitute the agreement(s) (e.g., a Letter of Intent, Merger Agreement, Purchase and Sale Agreement) must be executed, while agreements not to compete may be provided in draft form if that is the most recent version.

If parties are filing on an executed Letter of Intent, they may also submit a draft of the definitive agreement, if one exists.

Note that transactions subject to § 801.30 and bankruptcies under 11 U.S.C. § 363 do not require an executed agreement or letter of intent. For bankruptcies, provide the order from the bankruptcy court.

END OF ITEM 3

## ITEM 4

### Item 4(a)

Provide the names of all entities within the person filing notification, including the UPE, that file annual reports (Form 10-K or Form 20-F) with the United States Securities and Exchange Commission, and provide the Central Index Key (CIK) number for each entity.

### Item 4(b)

Provide the most recent annual reports and/or annual audit reports (or, if audited is unavailable, unaudited) of the person filing notification.

The acquiring person should also provide the most recent reports of the acquiring entity(s) and any controlled entity whose dollar revenues contribute to an overlap reported in Item 7.

The acquired person should also provide the most recent reports of the acquired entity(s).

Natural persons need only provide the most recent reports for the highest level entity(s) they control. Do not provide personal balance sheets or tax returns.

If the most recent reports do not show sales or assets sufficient to meet the size of person test, and the size of person test is relevant given the size of the transaction, the filing person must stipulate in Item 4(b) that it meets the test.

Note that the person filing notification may incorporate a document by reference to an internet address directly linking to the document. (See § 803.2(e)).

### Items 4(c) and 4(d)

For each document responsive to Items 4(c) and 4(d), provide the:

- 1) document's title;
- 2) date of preparation; and
- 3) name and title of each individual who prepared the document.

If a specific date is not available, indicate the month and year the document was prepared.

If a large group of people prepared the document, list all the authors and their titles, identifying the principal authors.

Alternatively, it is acceptable to indicate that the document was prepared under the supervision of the lead author and to provide the name and title of that author. If a third party prepared the document, the date of preparation and the name of the third party will suffice.

### Numbering

Number each document provided in response to Items 4(c) and 4(d). Number 4(c) documents 4(c)-1, 4(c)-2, 4(c)-3, etc. Likewise, number 4(d) documents 4(d)-1, 4(d)-2, 4(d)-3, etc., regardless of the three sub-categories within Item 4(d). If a document is responsive to both 4(c) and 4(d), there is no need to cross-reference.

When submitting a document responsive to both 4(c) and 4(d), list it only once, under 4(c) or 4(d).

### Privilege

Note that if the filing person withholds or redacts portions of any document responsive to Items 4(c) and 4(d) based on a claim of privilege, the person must provide a statement of reasons for non-compliance (a "privilege log") detailing the claim of privilege for each withheld or redacted document. (See § 803.3(d)).

For each document, include the:

- 1) title of the document;
- 2) its author;
- 3) author's title/position;
- 4) addressee;
- 5) addressee's title/position;
- 6) date;
- 7) subject matter;
- 8) all recipients of the original and any copies;
- 9) recipients' titles/positions;
- 10) document's present location; and
- 11) who has control over it.

Additionally, the filing person must state the factual basis supporting the privilege claim in sufficient detail to enable staff to assess the validity of the claim for each document without disclosing the protected information.

If a privileged document was circulated to a group, such as the Board or an investment committee, the name of the group is sufficient, but the filing person should be prepared to disclose the names and titles/positions of the individual group members, if requested. If the claim of privilege is based on advice from outside counsel, the name of the outside counsel providing the advice and the related law firm must be provided. If several lawyers participated in providing advice, identifying lead counsel is sufficient. In identifying who controls a document, the name of the law firm is sufficient.

When creating a privilege log, use a separate numbering system for withheld documents, such as P-1, P-2, etc. Redacted documents should also be listed on a separate log that complies with § 803.3(d).

### Item 4(c)

Provide all studies, surveys, analyses and reports which were prepared by or for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) for the purpose of evaluating or analyzing the acquisition with respect to market shares, competition, competitors, markets, potential for sales growth or expansion into product or geographic markets.

### Item 4(d)

#### Item 4(d)(i)

Provide all Confidential Information Memoranda prepared by or for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) of the UPE of the acquiring or acquired person or of the acquiring or acquired entity(s) that specifically relate to the sale of the acquired entity(s)

or assets. If no such Confidential Information Memorandum exists, submit any document(s) given to any officer(s) or director(s) of the buyer meant to serve the function of a Confidential Information Memorandum. This does not include ordinary course documents and/or financial data shared in the course of due diligence, except to the extent that such materials served the purpose of a Confidential Information Memorandum when no such Confidential Information Memorandum exists. Documents responsive to this item are limited to those produced up to one year before the date of filing.

#### Item 4(d)(ii)

Provide all studies, surveys, analyses and reports prepared by investment bankers, consultants or other third party advisors ("third party advisors") for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) of the UPE of the acquiring or acquired person or of the acquiring or acquired entity(s) for the purpose of evaluating or analyzing market shares, competition, competitors, markets, potential for sales growth or expansion into product or geographic markets that specifically relate to the sale of the acquired entity(s) or assets. This item requires only materials developed by third party advisors during an engagement or for the purpose of seeking an engagement. Documents responsive to this item are limited to those produced up to one year before the date of filing.

#### Item 4(d)(iii)

Provide all studies, surveys, analyses and reports evaluating or analyzing synergies and/or efficiencies prepared by or for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) for the purpose of evaluating or analyzing the acquisition. Financial models without stated assumptions need not be provided in response to this item.

## END OF ITEM 4

#### Tip for Item 4

If there is insufficient room on the Form for a response, attach "additional pages" behind that item on the Form. (See Responses on page II).

[Online Tips for Item 4\(c\)](#)

[Online Tips for Item 4\(d\)](#)

## ITEMS 5 THROUGH 7

**Limited response for acquired person.** For Items 5 through 7, the acquired person should limit its response in the case of an acquisition of:

- 1) assets, to the assets to be acquired;
- 2) voting securities, to the issuer(s) whose voting securities are being acquired and all entities controlled by such issuer; and/or
- 3) non-corporate interests, to the unincorporated entity(s) being acquired and all entities controlled by such unincorporated entity(s).

A person filing as both acquiring and acquired persons may be required to provide a separate response to Items 5 through 7 in each capacity so that it can properly limit its response as an acquired person. (See §§ 803.2(b) and (c)).

## ITEM 5

This item requests information by NAICS code regarding dollar revenues. (See NAICS Data section on page II). All persons must submit data on non-manufacturing dollar revenues at the 6-digit NAICS industry code level. To the extent that dollar revenues are derived from manufacturing operations (NAICS Sectors 31-33), only submit data at the 10-digit product code level (NAICS-based codes).

List all NAICS codes in ascending order.

Persons filing notification should include the total dollar revenues for all entities included within the person filing notification at the time the Form is prepared. If no dollar revenues are reported, check the "None" box and provide a brief explanation.

#### Item 5(a)

Provide 6-digit NAICS industry data concerning the aggregate U.S. operations of the person filing notification for the most recent year in all non-manufacturing NAICS Sectors in which the person engaged. If the dollar revenues for a non-manufacturing NAICS code totaled less than one million dollars in the most recent year, that code may be omitted from Item 5(a).

Provide 10-digit NAICS product code data for each product code within all manufacturing NAICS Sectors (31-33) in which the person engaged in the U.S., including dollar revenues for each product manufactured outside the U.S. but sold into the U.S. Sales of any manufactured product should be reported in a manufacturing code only, even if sold through a separate warehouse or retail establishment.

If such data have not been compiled for the most recent year, estimates of dollar revenues by 6-digit NAICS industry codes and 10-digit NAICS product codes may be provided.

Check the Overlap box for a NAICS code if both parties to the transaction generate dollar revenues in that NAICS code. If there is only a 6-digit overlap in a manufacturing code in Item 7, do not check the Overlap box for a related 10-digit code in Item 5.



**Item 5(b)**

**Complete only if the acquisition is the formation of a joint venture corporation or unincorporated entity.** (See §§ 801.40 and 801.50). If the acquisition is not the formation of a joint venture, check the "Not Applicable" box.

**Item 5(b)(i)**

List the contributions that each person forming the joint venture corporation or unincorporated entity has agreed to make, specifying when each contribution is to be made and the value of the contribution as agreed by the contributors.

**Item 5(b)(ii)**

Describe fully the consideration that each person forming the joint venture corporation or unincorporated entity will receive in exchange for its contribution(s).

**Item 5(b)(iii)**

Describe generally the business in which the joint venture corporation or unincorporated entity will engage, including its principal types of products or activities, and the geographic areas in which it will do business.

**Item 5(b)(iv)**

Identify each 6-digit NAICS industry code in which the joint venture corporation or unincorporated entity will derive dollar revenues. If the joint venture corporation or unincorporated entity will be engaged in manufacturing, also specify each 10-digit NAICS product code in which it will derive dollar revenues.

## END OF ITEM 5

**Tip for Item 5**

Remember, all financial information should be expressed in millions of dollars, rounded to the nearest one-tenth of a million dollars.

[Online Tips for Item 5](#)

## ITEM 6

**An acquired person does not complete Item 6 if the transaction involves only the acquisition of assets.** If the transaction involves a mix of assets along with voting securities and/or non-corporate interests, the acquired person must complete Item 6 as related to the voting securities and non-corporate interests.

**Item 6(a)**

**Subsidiaries of filing person.** List the name, city and state/country of all U.S. entities, and all foreign entities that have sales in or into the U.S., that are included within the person filing notification. Entities with total assets of less than \$10 million may be omitted. Alternatively, the filing person may report all entities within it.

**Item 6(b)**

**Minority shareholders.** For the acquired entity(s) and for the acquiring entity(s) and its UPE or, in the case of natural persons, the top-level corporate or unincorporated entity(s) within that UPE, list the name and headquarters mailing address of each shareholder that holds 5% or more but less than 50% of the outstanding voting securities or non-corporate interests of the entity, and the percentage of voting securities or non-corporate interests held by that person. (See § 801.1(c))

For limited partnerships, only the general partner(s), regardless of percentage held, should be listed.

**Item 6(c)**

**Minority holdings.** Item 6(c) requires the disclosure of holdings of 5% or more but less than 50%, of any entity(s) that derives dollar revenues in any 6-digit NAICS code reported by the other person filing notification. Holdings in those entities that have total assets of less than \$10 million may be omitted.

The acquiring person may rely on its regularly prepared financials that list its investments, and those of its associates that list their investments, to respond to Items 6(c)(i) and (ii), provided the financials are no more than three months old.

If NAICS codes are unavailable, holdings in entities that have operations in the same industry, based on the knowledge or belief of the acquiring person, should be listed. In responding to Items 6(c)(i) and 6(c)(ii), it is permissible for the acquiring person to list all entities in which it or its associate(s) holds 5% or more but less than 50% of the voting securities of any issuer or non-corporate interests of any unincorporated entity. Holdings in those entities that have total assets of less than \$10 million may be omitted.

**Item 6(c)(i)**

**Minority holdings of filing person.** If the person filing notification holds 5% or more but less than 50% of the voting securities of any issuer or non-corporate interests of any unincorporated entity, list the issuer and percentage of voting securities held, or in the case of an unincorporated entity, list the unincorporated entity and the percentage of non-corporate interests held.

The acquiring person should limit its response, based on its knowledge or belief, to entities that derived dollar revenues in the most recent year from operations in industries within any 6-digit NAICS industry code in which the acquired entity(s) or assets also derived dollar revenues in the most recent year.

The acquired person should limit its response, based on its knowledge or belief, to entities that derive dollar revenues in the

same 6-digit NAICS industry code as the acquiring person.

**Item 6(c)(ii)**

**Minority holdings of associates.**

**This item should only be completed by the acquiring person.**

Based on the knowledge or belief of the acquiring person, for each associate (see § 801.1(d)(2)) of the acquiring person holding:

- 1) 5% or more but less than 50% of the voting securities or non-corporate interests of the acquired entity(s); and/or
- 2) 5% or more but less than 50% of the voting securities of any issuer or non-corporate interests of any unincorporated entity that derived dollar revenues in the most recent year from operations in industries within any 6-digit NAICS industry code in which the acquired entity(s) or assets also derived dollar revenues in the most recent year;

list the associate, the issuer or unincorporated entity and the percentage held.

**END OF ITEM 6**

**Tip for Item 6(c)**

Remember, if NAICS codes are unavailable, holdings in entities that have operations in the same industry, based on the knowledge or belief of the acquiring person, should be listed.

[Online Tips for Item 6](#)

**ITEM 7**

If, to the knowledge or belief of the person filing notification, the acquiring person, or any associate (see § 801.1(d)(2)) of the acquiring person, derived any amount of dollar revenues (even if omitted from Item 5) in the most recent year from operations:

- 1) in industries within any 6-digit NAICS industry code in which any acquired entity that is a party to the acquisition also derived any amount of dollar revenues in the most recent year; or
- 2) in which a joint venture corporation or unincorporated entity will derive dollar revenues;

then for each such 6-digit NAICS industry code follow the instructions below for this section.

Note that if the acquired entity is a joint venture, the only overlaps that should be reported are those between the assets to be held by the joint venture and any assets of the acquiring person or its associates not contributed to the joint venture.

**Item 7(a)**

**Industry Code Overlap Information**

Provide the 6-digit NAICS industry code and description for the industry, and indicate whether the overlap is from the person, an associate or both.

**Item 7(b)**

**Item 7(b)(i)**

If the UPE of the other person(s) filing notification derived dollar revenues in the same 6-digit industry code(s) listed in Item 7(a), list the name of that UPE and the name of the entity(s) within that UPE that actually derived those dollar revenues, if different from the entity(s) listed in Item 3(a).

**Item 7(b)(ii)**

**This item should only be completed by the acquiring person.**

List the name of each associate of the acquiring person that also derived dollar revenues through a controlled operating company(s) in the 6-digit industry and, if different, the name of the entity(s) that actually derived those dollar revenues.

**Item 7(c)**

**Geographic Market Information**

Use the 2-digit postal codes for states and territories and provide the total number of states and territories at the end of the response.

Note that except in the case of those NAICS industries in the Sectors and Subsectors mentioned in Item 7(c)(iv), the person filing notification may respond with the word “national” if business is conducted in all 50 states.

**Item 7(c)(i)**

**NAICS Sectors 31-33**

For each 6-digit NAICS industry code within NAICS Sectors 31-33 (manufacturing industries) listed in Item 7(a), list the relevant geographic information in which, to the knowledge or belief of the person filing the notification, the products in that 6-digit NAICS industry code produced by the person filing notification are sold without a significant change in their form (whether they are sold by the person filing notification or by others to whom such products have been sold or resold). Except for industries covered by Item 7(c)(iv)(b), the relevant geographic information is all states or, if desired, portions thereof.

**Item 7(c)(ii)**NAICS Sector 42

For each 6-digit NAICS industry code within NAICS Sector 42 (wholesale trade) listed in Item 7(a), list the states or, if desired, portions thereof in which the customers of the person filing notification are located.

**Item 7(c)(iii)**NAICS Industry Group 5241

For each 6-digit NAICS industry code within NAICS Industry Group 5241 (insurance carriers) listed in Item 7(a), list the state(s) in which the person filing notification is licensed to write insurance.

**Item 7(c)(iv)(a)**Other NAICS Sectors

For each 6-digit NAICS industry code listed in item 7(a) within the NAICS Sectors or Subsectors below, list the states or, if desired, portions thereof in which the person filing notification conducts such operations.

- 11 agriculture, forestry, fishing and hunting
- 21 mining
- 22 utilities
- 23 construction
- 48-49 transportation and warehousing
- 511 publishing industries
- 515 broadcasting
- 517 telecommunications
- 71 arts, entertainment and recreation

**Item 7(c)(iv)(b)**

For each 6-digit NAICS industry code listed in item 7(a) within the NAICS Sectors or Subsectors below, provide the address, arranged by state, county and city or town, of each establishment from which dollar revenues were derived in the most recent year by the person filing notification.

- 2123 nonmetallic mineral mining and quarrying
- 32512 industrial gases
- 32732 concrete
- 32733 concrete products
- 44-45 retail trade, except 442 (furniture and home furnishings stores), and 443 (electronics and appliance stores)
- 512 motion picture and sound recording industries
- 521 monetary authorities - central bank
- 522 credit intermediation and related activities
- 532 rental and leasing services
- 62 health care and social assistance
- 72 accommodations and food services, except 7212 (recreational vehicle parks and recreational camps), and 7213 (rooming and boarding houses)
- 811 repair and maintenance, except 8114 (personal and household goods repair and maintenance)
- 812 personal and laundry services

**Item 7(c)(iv)(c)**

For each 6-digit NAICS industry code listed in item 7(a) within the NAICS Sectors or Subsectors below, list the states or, if desired, portions thereof in which the person filing notification conducts such operations.

- 442 furniture and home furnishings stores
- 443 electronics and appliance stores
- 516 internet publishing & broadcasting
- 518 internet service providers

- 519 other information services
- 523 securities, commodity contracts and other financial investments and related activities
- 5242 insurance agencies and brokerages, and other insurance related activities
- 525 funds, trusts and other financial vehicles
- 53 real estate and rental and leasing
- 54 professional, scientific and technical services
- 55 management of companies and enterprises
- 56 administrative and support and waste management and remediation services
- 61 educational services
- 7212 recreational vehicle parks and recreational camps
- 7213 rooming and boarding houses
- 813 religious, grantmaking, civic, professional, and similar organizations
- 8114 personal and household goods repair and maintenance

**Item 7(d)**

**This item should only be completed by the acquiring person.**

Use the geographic markets listed in Items 7(c)(i) through 7(c)(iv) to respond to this item, providing the information for associates of the acquiring person. Provide separate responses for each associate of the acquiring person and, if different, the controlled operating company(s) that actually derived the dollar revenues.

**END OF ITEM 7**

[Online Tips for Item 7](#)



## ITEM 8

**This item should only be completed by the acquiring person.** Determine each 6-digit NAICS industry code listed in Item 7(a), in which the acquiring person derived dollar revenues of \$1 million or more in the most recent year and in which either:

- 1) the acquired entity derived dollar revenues of \$1 million or more in the recent year (or in the case of the formation of a joint venture corporation or unincorporated entity, the joint venture corporation or unincorporated entity reasonably can be expected to derive dollar revenues of \$1 million or more); or
- 2) in the case of acquired assets, to which dollar revenues of \$1 million or more were attributable in the most recent year.

For each such 6-digit NAICS industry code, list all acquisitions of entities or assets deriving dollar revenues in that 6-digit NAICS industry code made by the acquiring person in the five years prior to the date of the instant filing, even if the transaction was non-reportable. List only acquisitions of 50% or more of the voting securities of an issuer or 50% or more of non-corporate interests of an unincorporated entity that had annual net sales or total assets greater than \$10 million in the year prior to the acquisition, and any acquisitions of assets valued at or above the statutory size-of-transaction test at the time of their acquisition.

This item pertains only to acquisitions of U.S. entities/assets and foreign entities/assets with sales in or into the U.S., i.e., with dollar revenues that would be reported in Item 5.

For each such acquisition, supply:

- 1) the 6-digit NAICS industry code (by number and description) identified above in which the acquired entity derived dollar revenues;
- 2) the name of the entity from which the assets, voting securities or non-corporate interests were acquired;
- 3) the headquarters address of that entity prior to the acquisition;
- 4) whether assets, voting securities or non-corporate interests were acquired; and
- 5) the consummation date of the acquisition.

## END OF ITEM 8

## CERTIFICATION

See § 803.6 for requirements.

The certification must be notarized or use the language found in 28 U.S.C. § 1746 relating to unsworn declarations under penalty of perjury.

## PRIVACY ACT STATEMENT

Section 18a(a) of Title 15 of the U.S. Code authorizes the collection of this information. Our authority to collect Social Security numbers is 31 U.S.C. § 7701. The primary use of information submitted on this Form is to determine whether the reported merger or acquisition may violate the antitrust laws. Taxpayer information is collected, used, and may be shared with other agencies and contractors for payment processing, debt collection and reporting purposes. Furnishing the information on the Form is voluntary.

Consummation of an acquisition required to be reported by the statute cited above without having provided this information may, however, render a person liable to civil penalties up to \$40,000 per day. We also may be unable to process the Form unless you provide all of the requested information.

## DISCLOSURE NOTICE

Public reporting burden for this report is estimated to vary from 8 to 160 hours per response, with an average of 37 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this report, including suggestions for reducing this burden to:

Premier Notification Office  
Federal Trade Commission, Room 5301  
400 7th Street, S.W.  
Washington, D.C. 20024

and

Office of Information and Regulatory Affairs  
Office of Management and Budget  
Washington, D.C. 20503

Under the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The operative OMB control number, 3084-0005, appears within the Notification and Report Form and these Instructions.

## END OF FORM INSTRUCTIONS

Donald S. Clark,  
Secretary.

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